

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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Board of Regents, The University of Texas
System, and 3D Systems, Inc.

Plaintiffs,

v.

EOS GmbH Electro Optical Systems,

Defendant.

U.S. CLERK'S OFFICE
BY [initials]

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Civil Action No.

**COMPLAINT FOR INFRINGEMENT OF U.S. PATENT NO. 5,597,589
AND U.S. PATENT NO. 5,639,070**

For their Complaint, Plaintiffs Board of Regents, The University of Texas System and 3D Systems, Inc., state as follows:

THE PARTIES

1. Plaintiff Board of Regents, The University of Texas System (the "University") is the body delegated by the Texas Legislature to administer the University of Texas System, an organization of academic universities, health institutions and schools located in the State of Texas.

2. Plaintiff 3D Systems, Inc. ("3D Systems") is a California corporation that maintains its principal place of business in Valencia, California.

3. Defendant EOS GmbH Electro Optical Systems ("EOS") is an entity organized and existing under the laws of Germany and maintains its principal place of business in Planegg/Munich, Germany. EOS does business on a regular basis in the United States, including in the State of Texas.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, Title 35, United States Code. The jurisdiction of this Court is proper under 35 U.S.C. §§ 271, *et seq.*, and 28 U.S.C. §§ 1331 and 1338.

5. Personal jurisdiction exists generally over EOS because EOS has minimum contacts with this forum as a result of business regularly conducted within the State of Texas and within this district, and, on information and belief, specifically as a result of, at least, committing the tort of patent infringement within Texas and this district.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391(c) and 28 U.S.C. § 1400(b).

BACKGROUND

7. Laser sintering is a method for producing parts layer-by-layer by means of heat sintering (that is, fusing or melting) powder with a laser. Dr. Carl R. Deckard initiated his research and development of the method while a student at the University, which thereafter exclusively licensed the technology (and patents relating thereto) to a company first known as Nova Corporation, and which later changed its name to DTM Corporation. DTM Corporation introduced the first commercial laser sintering machines. EOS, after having seen the DTM Corporation laser sintering machines, manufactured and sold, and continues to manufacture and sell, laser sintering machines. 3D Systems acquired DTM Corporation in 2001.

COUNT I
INFRINGEMENT OF UNITED STATES PATENT NO. 5,597,589

8. On January 28, 1997, United States Patent No. 5,597,589 ("the '589 Patent"), entitled "Apparatus for Producing Parts by Selective Sintering," was duly and legally issued to the University, with Carl R. Deckard named as inventor. Since that date, the University has

been, and still is, the owner of the '589 Patent.

9. 3D Systems is the exclusive licensee of the '589 Patent and has the right, with the University, to enforce the '589 Patent against infringement by third parties, including infringement by EOS.

10. EOS is infringing the '589 Patent, under 35 U.S.C. §§ 271, *et seq.*, by making, offering to sell, selling, and/or using within the United States and, upon information and belief, importing into the United States machines covered by the '589 Patent.

11. EOS will continue to infringe the '589 Patent unless enjoined by this Court.

12. On information and belief, EOS was aware of the '589 Patent prior to its infringement thereof, and EOS's infringement has been willful and continues to be willful.

COUNT II
INFRINGEMENT OF UNITED STATES PATENT NO. 5,639,070

13. On June 17, 1997, United States Patent No. 5,639,070 ("the '070 Patent"), entitled "Method for Producing Parts by Selective Sintering," was duly and legally issued to the University, with Carl R. Deckard named as inventor. Since that date, the University has been, and still is, the owner of the '070 Patent.

14. 3D Systems is the exclusive licensee of the '070 Patent and has the right, with the University, to enforce the '070 Patent against infringement by third parties, including infringement by EOS.

15. EOS is infringing the '070 Patent, under 35 U.S.C. §§ 271, *et seq.*, by making, offering to sell, selling, and/or using within the United States and, upon information and belief, importing into the United States machines which practice the methods covered by the '070 Patent.

16. By virtue of its importation, offers to sell and sales of machines which practice

the methods covered by the '070 Patent, EOS has contributed to, continues to contribute to, and/or induces infringement of the '070 Patent under 35 U.S.C. §§ 271, *et seq.*

17. EOS will continue to infringe the '070 Patent unless enjoined by this Court.

18. On information and belief, EOS was aware of the '070 Patent prior to its infringement thereof, and EOS's infringement has been and continues to be willful.

RELIEF

19. EOS will continue to infringe the '589 and '070 Patents unless enjoined by this Court.

20. The University and 3D Systems have suffered damages as a result of EOS's infringement of the '589 and '070 Patents.

JURY TRIAL DEMAND

21. The University and 3D Systems request a trial by jury of all issues so triable in this action.

PRAAYER

The University and 3D Systems respectfully request the following relief:

- A. That the Court enter a preliminary and permanent injunction against EOS's further infringement of the '589 and '070 Patents;
- B. That the Court award the University and 3D Systems the damages to which they are entitled;
- C. That the Court award interest on the damages;
- D. That the Court declare that each of the '589 and '070 Patents is valid, enforceable, and infringed by EOS;
- E. That the Court find this an exceptional case and award the University and 3D Systems treble damages and their costs and attorney's fees incurred in this action; and
- F. That the Court award such other relief as it deems just and proper.

Respectfully submitted,

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